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No. 1330

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IN THE

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1967.

SHERMAN H. SKOLNICK and PETER S. SARELAS,
Appellants,

vs.

WALTER H. MOSES, PAUL B. YOULE, CHARLES E. HERZOG, JOHN F. McBRIDE, MORRIS L. SIMONS, LESTER ASHER, and THE CHICAGO BAR ASSOCIATION,
Appellees.

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

## JURISDICTIONAL STATEMENT.

SHERMAN H. SKOLNICK,
9800 South Oglesby Avenue,
Chicago, Illinois 60617,
ESsex 5-5741,
Appellant, Pro Se.

PETER S. SARELAS,
30 North La Salle Street,
Chicago, Illinois 60602,
CEntral 6-1442,
Appellant, Pro Se.

St. Louis Law Printing Co., Inc., 411-15 N. Eighth St., 63101. CEntral 1-4477.

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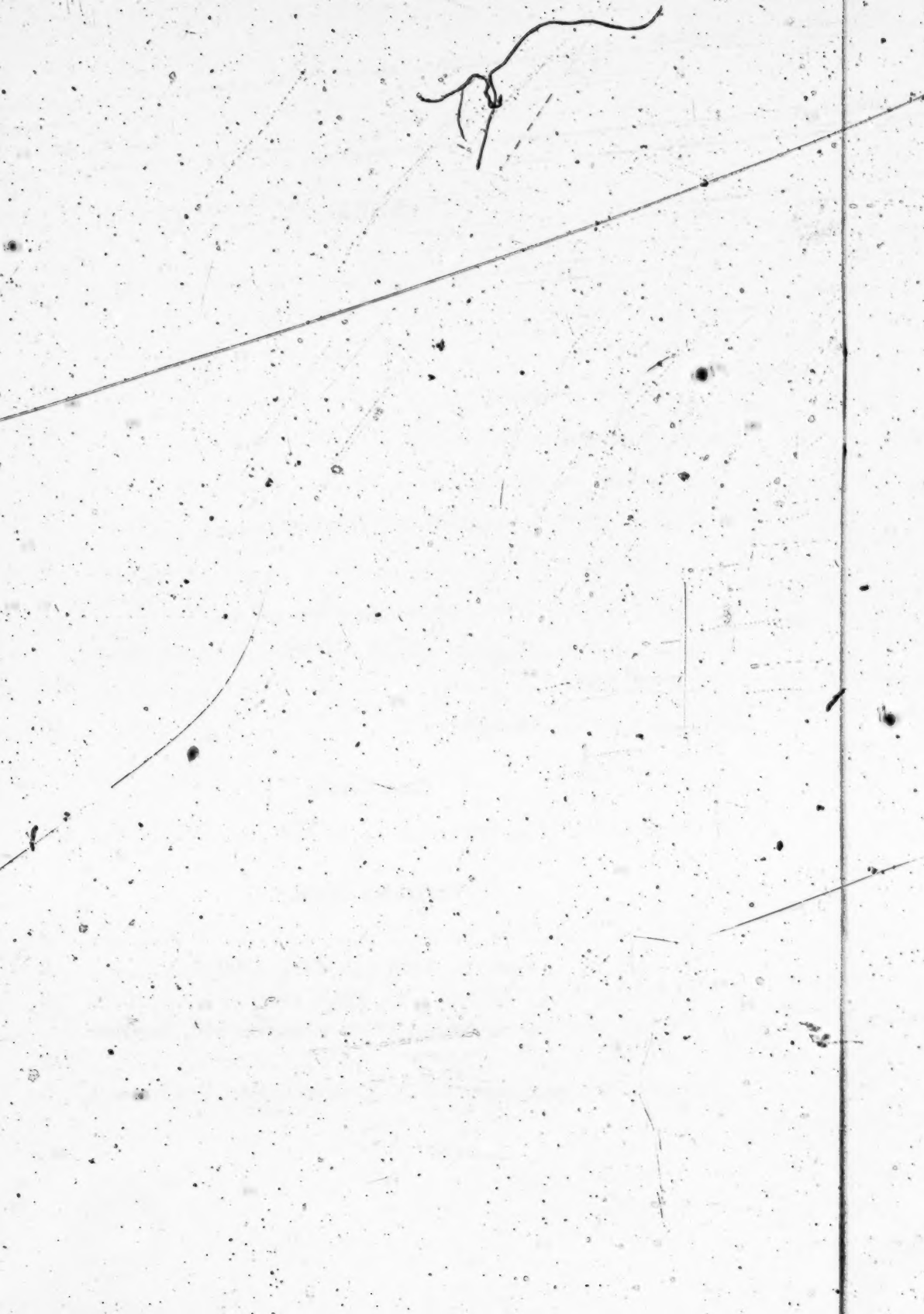

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Appellees.

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

## JURISDICTIONAL STATEMENT.

### OPINION BELOW.

The opinion with order of the three-judge district court panel, dismissing the case, has not yet been reported and is contained herein as Appendix "A", infra. Rec. 109-114.

### JURISDICTION.

On December 20, 1967, the three-judge district court panel entered an Order dismissing the Complaint and quashing all process which may have ensued thereupon.

Rec. 108, 114. Appellants' motions to vacate were denied, January 5, 1968, and January 30, 1968. Rec. 155-156, 162-163. A notice of appeal to this court was filed by appellants on February 19, 1968. Rec. 169. Jurisdiction of this Court to review on direct appeal the decision of the three-judge district court is conferred by 28 U. S. C. A., Section 1253.

## QUESTIONS PRESENTED.

1. Whether Section 101.59 of Chapter 110, Illinois Revised Statutes, 1965, by empowering appellees to act as a super court, or board of inquisition, with power to interfere with and inquire into the private litigation of appellants, and all other private litigants and other persons similarly situated, is unconstitutional as invading their federal constitutionally protected rights, privileges, and immunities.

2. Whether Section 101.59, by empowering appellees to interfere with, and inquire into, the private litigation of appellants and other private litigants and persons similarly situated, is unconstitutional, as depriving them of the equal right to sue, be parties, give evidence, and the right to the full and equal benefit of all laws and proceedings for the security of persons and property.

3. Whether Section 101.59 is unconstitutional by empowering appellees to invade the federally protected rights of the appellants, and other private litigants, not to have their private litigation interfered with, reviewed, or re-adjudicated by appellees purporting to be empowered as a super-court or board of inquisition, outside of, or over and above, the duly constituted state and federal court system.

4. Whether the filing in the Illinois state and federal courts of legal papers by appellants acting for themselves as private litigants and their prosecution of court actions

affecting their own person, property, and reputation, can be the foundation for appellees, acting as a super court, to accuse or prosecute appellants.

## STATUTE INVOLVED.

Section 101.59 of Chapter 110 of Illinois Revised Statutes, 1965:

(Said Section being extensive is hereinafter set forth as Appendix "B", infra.)

## STATEMENT.

a.) The Complaint (Appendix "C", infra).

This action was brought under 42 U. S. C. A., Sections 1981, 1983, and 1988; and 28 U. S. C. A., Sections 1343 (3), and 2201 and 2202. Rec. 8. Appellants' Complaint seeks a declaration of the unconstitutionality of Section 101.59 of Chapter 110, Illinois Revised Statutes, 1965. Appellants' suit is a class action brought on behalf of themselves and all private litigants and persons similarly situated. Rec. 8.

Appellants have set forth in their complaint, with highly specific fact allegations, that appellees, purporting to be empowered under Section 101.59, are and have been acting as a super court, or board of inquisition, with power to inquire into, interfere with, influence the outcome of, and review and re-adjudicate their private litigation, over and above the duly constituted state and federal court system. Rec. 8-13. Appellants have set forth that this interferes with their equal right to sue, be parties, give evidence, and their equal right of access to courts to prevent or redress wrongs and enforce rights. Rec. 9-12.

Appellants sought by motion in the lower court supported by affidavit, to bring to the court's attention that appellees purport, moreover, to have the power, by state subpoena, to interfere even with the instant case while it was pending in the district court. Rec. 22-24, 25.

Appellants' fact allegations stand admitted by appellees' motion to strike and dismiss complaint. Rec. 29, 49-60.

Both the appellees and the three-judge panel sought to side-step appellants' Complaint by dealing with Section 101.59 as if it were merely a "disbarment" statute, thereby ignoring the undisputed facts that the rights and capacity of private litigants were here involved and that no attorney malpractice is involved in the instant case. The three-judge district court panel in its "Memorandum Opinion" of December 20, 1967 (Appendix "A", infra), erroneously recites the nature of the instant case, by statements directly opposite the record or not supported by the record. Appellants, by motions to vacate judgment and expunge or withdraw opinion sought unsuccessfully to correct this. Rec. 116-128; Rec. 155-156. Rec. 160-161; Rec. 162-163.

b.) Proceedings Below.

During the course of this litigation in the district court, there was no hearing on the merits of appellants' claim, although appellants made a written offer of proof. Rec. 107. Whether appellants can state a claim upon which relief can be granted, requires a hearing on the merits. **Dombrowski v. Pfister**, 380 U. S. 479, at 497, 85 S. Ct. 1116, at 1126.

## THE QUESTIONS PRESENTED ARE SUBSTANTIAL.

The questions presented are substantial because they raise basic issues as to whether Illinois, by an overly broad and vague law, can purport to empower its agents to in-

terfere with state and federal court private litigation, and thereby take away from Illinois residents and citizens the equal right to access to state and federal courts, and the equal right to sue, be parties, give evidence, and similar federally protected rights.

A state law that purports to empower its agents to act as a super court, or board of inquisition, over and above the duly constituted state and federal court system, opens the way to infamous abuses of the rights of citizens. It is appellants' position that a state or federal court party-litigant or witness has federal constitutionally protected rights, privileges, and immunities, similar to that of members of either House of Congress.

The Federal Constitution provides that members of either House of Congress:

> "* * * for any Speech or Debate in either House, **they shall not be questioned in any other place.**" Article I, Sec. 6, clause 1 (Emphasis added).

The filing in a state or federal court of legal papers by a party-litigant acting on his own behalf and his prosecution of legal actions affecting his own person, property, and reputation, or the statements made by a witness in court, cannot be the foundation of any accusation or prosecution, action, or complaint, in any other court or place whatsoever. Of what avail and effect are final court judgments if another body, purporting to be a super court, can re-open private litigation and inquire into the motives of the private litigants and make accusations against the private litigants or seek to prosecute them, as appellees are doing?

The action of the appellees puts a "chill" on the federal constitutional rights of appellants, within the meaning of **Dombrowski v. Pfister**, 380 U. S. 479.

## CONCLUSION.

For the reasons above stated, it is submitted that the Court has jurisdiction and that this appeal should be heard.

Respectfully submitted,

SHERMAN H. SKOLNICK, Appellant, Pro Se;

PETER S. SARELAS, Appellant, Pro Se.

## APPENDIX "A".

In the United States District Court
For the Northern District of Illinois,
Eastern Division.

| | |
|---|---|
| Sherman H. Skolnick and Peter S. Sarelas, Plaintiffs, vs. Walter H. Moses, Paul B. Youle, Charles E. Herzog, John F. McBride, Morris L. Simons, Lester Asher, and The Chicago Bar Association, Defendants. | No. 66 C 1773. |

### Memorandum Opinion.

Before Cummings, Circuit Judge, and Parsons and Napoli, District Judges.

Per Curiam. The plaintiffs, Sherman H. Skolnick, a layman, and Peter S. Sarelas, an attorney, brought this cause for a determination that Rule 59 of the Illinois Supreme Court Rules is unconstitutional. The defendants are alleged to have been purportedly empowered by or acting pursuant to said Rule. Because of the position taken later herein, it is unnecessary at this time to direct our attention to the question of whether plaintiff Skolnick, a layman, has a standing to bring this action relating to the effect of Rule 59. The District Judge determined that the case was a proper one for determination by a Three-Judge District Court, as provided by 62 Stat. L. 968, 28 U. S. C. A., § 2281, and this Court was convened.

Defendants have moved to strike and dismiss the complaint. We grant the motion on two of the three grounds urged by the defendants: (1) Plaintiffs have failed to raise a substantial Federal question; and (2) the complaint fails to state a claim upon which relief can be granted.

Through Rule 59, the Illinois Supreme Court has set forth the procedure for striking an attorney's name from its roll. This Rule has been held to be constitutional by the Illinois Supreme Court, **In Re McCallum**, 391 Ill. 400, 64 N. E. 2d 310 (1945), and by the United States Court of Appeals for the Seventh Circuit, **Phipps v. Wilson**, 186 F. 2d 748 (7th Cir. 1951).

In **In Re McCallum**, *supra*, the Illinois Supreme Court stated (at p. 418):

> ". . . This Court, taking cognizance of numerous unethical practices of lawyers in large cities and knowing the high ethical standards required to become a member of the Chicago Bar Association, delegated to this organization the power to appoint committees of inquiry and to take testimony and report evidence of misconduct upon the part of lawyers, and to make recommendations to this Court whether, in such case, to discipline or discharge the respondent.
>
> • • • • • • • •
>
> ". . . The evidence, to our minds, clearly establishes that respondent has been guilty of unethical practices."

The decision of the Illinois Supreme Court in the **McCallum** case was subsequently appealed to the United States Supreme Court. In a *per curiam* decision rendered by the United States Supreme Court, at 326 U. S. 689, the Court held that ". . . the motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question."

The United States Court of Appeals for the Seventh Circuit has likewise passed upon the validity of Rule 59 and has held that allegations similar to those in the case at bar do not raise a substantial Federal question. In **Phipps v. Wilson**, *supra*, the Court stated:

> "The Illinois Supreme Court has likewise passed upon other contentions raised herein by the plaintiff. It has held that the procedure under Chapter 110, § 259.59, Rule 59, is not an unconstitutional delegation of judicial power. In re Donaghy, 393 Ill. 621, 66 N. E. 2d 856.
>
> • • • • • • • •
>
> "As the amended complaint shows that plaintiff was apprised of the charges filed against him, and that he had a reasonable opportunity to defend thereagainst, the procedure complained against did not violate a scheme of ordered liberty or a deep rooted principle of justice. In other words, we find that plaintiff was not denied federal due process of law."

As to the matter of the alleged unconstitutional application of Rule 59 to the plaintiffs, we must consider separately the standing of the plaintiff Skolnick to bring this action. As to the plaintiff Sarelas, the complaint alleges that he received a letter from the Committee on Inquiry of the Chicago Bar Association requesting his presence before the Committee. This might be considered a summons which he was obliged to honor, since he is a member of the Bar. What the plaintiff Skolnick, a layman, received was a phone call, and later a letter confirming the invitation which the Committee extended him to appear in person and amplify upon his allegations of misconduct on the part of a District Judge. Although it may be said that a layman appearing *pro se* in his litigation places himself in the position of a lawyer and submits to the process and authority exercised by the defendants under Rule 59, since the Rule, by its own language, con-

templates the investigation of "practices of attorneys at law which tend to defeat the administration of justice or to bring the courts and the legal profession into disrepute," for the purposes of the issues before us, Skolnick, as a layman, was free to ignore the invitation extended him. Commensurately he is in no position to join Sarelas in contesting the legality of Rule 59 or its application to him.

Further, the Committee did not formally direct Skolnick to appear before it, and the complaint alleges no overt act on the part of defendants against him which would be cognizable under the type of action he seeks here to bring. Under any posture of the matter before us, the complaint must be dismissed as to Skolnick for failure to state a claim upon which relief may be granted, and the same hereby is ordered.

The letters directed to Sarelas might be considered sufficiently the equivalent of legal process under the Rule to give him, Sarelas, a standing to challenge the Rule. Some question might be justified as to whether this standing was lost by waiver were the facts before us showing that he appeared generally pursuant to the request. The procedure for challenging an alleged illegal subpoena is to appear specially to seek its suppression (to cause it to be quashed), or to disregard it and defend against any subsequent action on the ground that the process was a nullity. The cause is not before us on this posture, however, since the pleadings fail to disclose whether or not Sarelas appeared before the Committee.

A careful study of the complaint reveals that there has been no unconstitutional application of Rule 59 of the Illinois Supreme Court Rules to Sarelas. The complaint contains no allegation that Sarelas was denied the right to be heard. It speaks only in conclusory statements. It does not allege that citizens in the same position as

Sarelas, having done the same things, would not be treated in the same way. Thus, no issue respecting a denial of equal protection of the laws is presented. No deprivation of rights of citizens guaranteed by the Constitution or Laws of the United States has been sufficiently alleged. The claimed interference with constitutional rights is incomplete in the absence of charges that deprivation of specific constitutional rights resulted. Allegations that the Committee was attempting to interfere with certain pending litigation are incapable of completing this requirement. No denial of due process of law can be gleaned from any of the allegations of the complaint.

All in all, the complaint fails to state a claim under any theory of law upon which relief can be granted, and no substantial Federal question has been raised. Accordingly, this Court, on motion of the defendants, must dismiss the complaint and quash all process which may have ensued thereupon. The same hereby is ordered.

Enter:

Walter J. Cummings,
United States Circuit Judge.

James B. Parsons,
United States District Judge,

Alexander J. Napoli,
United States District Judge.

Dated: December 20, 1967.

## APPENDIX "B".

**101.59 Proceeding to Strike Attorney's Name From Roll—Reinstatement.** The board of governors and its existing committee on grievances, and their successors as such, of the Illinois State Bar Association, and the board of managers and its existing committee on grievances, and their successors as such, of the Chicago Bar Association, are hereby appointed as commissioners of this court and are empowered and charged to make investigations from time to time, as may be necessary, concerning practices of attorneys at law which tend to defeat the administration of justice or to bring the courts and the legal profession into disrepute. To this end, these commissioners are further empowered and charged to receive, entertain, inquire into and take proof concerning complaints against attorneys at law of this State, and may call to their assistance in such inquiries other members of the bar or bar associations of the State, make all necessary rules and regulations concerning the conduct of such inquiries and may themselves, or by such committees as they may designate, take the evidence of witnesses, as hereinafter provided.

No complaint against an attorney at law shall be entertained unless it is signed by the person or persons aggrieved or by the president and secretary of a regularly organized bar association or by the chairman of a regularly appointed committee of the Chicago or Illinois State Bar Associations and unless it is sufficiently clear and specific in its charges as reasonably to inform said attorney at law of the acts of misconduct he is claimed to have committed.

When a member of the bar, designated by the board of governors of the Illinois State Bar Association or the board of managers of the Chicago Bar Association so to do, shall file in the office of the clerk of the Supreme

Court an affidavit showing that any respondent resides or has gone out of this State or on due inquiry cannot be found, or is concealed within this State, so that process cannot be served upon him, and stating the place of residence of such respondent, if known, or that upon diligent inquiry his place of residence cannot be ascertained, and stating his last known place of residence, the clerk of the Supreme Court shall cause publication to be made in some newspaper of general circulation published in the county of respondent's place of residence or last known place of residence in this State, as set forth in such affidavit, containing notice of the pendency of the proceeding, the names of the complainant and the respondent, the title of this court and that of the commissioners of the court (the members of the board of governors and committee on grievances of the Illinois State Bar Association or of the board of managers and the committee on grievances of the Chicago Bar Association, as the case may be), and the time and place of the hearing of the case. He shall also within ten days from the first publication of such notice send a copy thereof by mail, addressed to such respondent whose residence or last known place of residence is stated in such affidavit. The certificate of the clerk that he has sent such copy in pursuance of this provision shall be evidence. Such notice shall be published for three consecutive weeks, the first insertion of which shall be at least thirty days before the date upon which the said cause shall be set for hearing by the commissioners; and unless said time has intervened no proceedings therein shall be had, but the said cause shall stand continued to a date at least thirty days after the said first date set for hearing, provided, that in case the respondent appears and consents to the hearing the cause may be heard at an earlier time.

The hearings before the commissioners or committees shall be private unless the respondent shall request that they be public.

Upon application by such commissioners, or committees, the clerk of this court shall issue writs of subpoena ad testificandum, writs of subpoena duces tecum or dedimus potestatum to take depositions. The commissioners and their committees are empowered to take and transcribe the evidence of witnesses, who shall be sworn by any person authorized by law to administer oaths, and the commissioners shall report to this court the failure or refusal of any person to attend and testify in response to any subpoena issued as herein provided.

At the conclusion of a hearing upon any complaint against any attorney, before such commissioners or committees, the board of governors or board of managers, as the case may be, shall, if action by this court of any kind is recommended, make report to this court of its conclusions of fact and law concerning the complaint, answer and proof; and thereupon such matters shall stand for hearing and disposition in this court. Such report shall be entered on the docket and entitled in the name of the respondent. Upon the filing of any such report with proof of service of a copy thereof on the respondent in the same manner as briefs are required by rule of this court to be served, the respondent therein shall have ten days from the date of such filing to file exceptions thereto, and shall, within twenty days after the filing of such exceptions, bring to this court the record and proofs, or such parts thereof as may be necessary to enable the court to pass upon such exceptions. The commissioners, upon request of the respondent and payment of the actual cost thereof, shall certify to the court the proofs and record, or such parts thereof as the respondent may designate. With such record the respondent shall file abstracts and printed briefs.

Upon the filing of exceptions to such report by the respondent, the board of governors or the board of managers, as the case may be, shall designate a member of

the bar to file such certificates of proof, additional abstracts and briefs as may be deemed necessary fully to advise the court. Such additional abstract, if any, and brief shall be filed within twenty days after the filing of the respondent's abstracts and briefs, and respondent may reply thereto in 10 days. The number of abstracts and printed briefs and the manner of their service shall be governed by Rules 40 and 41[1] of this court.

• • • • • • • •

## APPENDIX "C".

In the United States District Court
For the Northern District of Illinois,
Eastern Division.

| | |
|---|---|
| Sherman H. Skolnick and Peter S. Sarelas,<br>Plaintiffs,<br>vs.<br>Walter H. Moses, Paul B. Youle, Charles E. Herzog, John F. McBride, Morris L. Simons, Lester Asher, and The Chicago Bar Association,<br>Defendants. | Civil Action No. 66 C 1773, Judge Parsons. |

### Complaint.

(Filed October 3, 1966.)

The plaintiffs, Sherman H. Skolnick and Peter S. Sarelas, allege as follows:

1. This Court has original jurisdiction of this action, and the plaintiffs have the right to bring this suit, under 17 Stat. L. 13, 16 Stat. L. 144; Title 42 United States Code, Sections 1981, 1983, and 1988.

Also, this Court has jurisdiction under 62 Stat. L. 932, Title 28 United States Code, Section 1343 (3).

2. This is a proper case for determination by a three-judge district court, as provided by 62 Stat. L. 968, Title 28 United States Code, Section 2281 et seq., in that the plaintiffs seek an interlocutory and permanent injunction to restrain the enforcement, operation, and execution of a statute of the State of Illinois by restraining the defend-

ants from enforcing, executing, and complying with the provisions of such statute. Relief is also sought pursuant to the Federal Declaratory Judgment Act, Title 28 United States Code, Sections 2201 and 2202.

3. That each of the defendants maintains an office in the City of Chicago, County of Cook, and State of Illinois, and resides within the Northern District of Illinois.

4. That at all times mentioned herein the plaintiffs were and are residents of the City of Chicago, County of Cook, and State of Illinois, and citizens of the United States.

5. That the plaintiffs, Sherman H. Skolnick and Peter S. Sarelas, bring this action on behalf of themselves, and on behalf of all private litigants and persons similarly situated.

6. That at all times herein mentioned the defendants, Walter H. Moses, Paul B. Youle, Charles E. Herzog, John F. McBride, Morris L. Simons, Lester Asher, and The Chicago Bar Association, purported to be empowered by, or acting pursuant to, Chapter 110, Section 101.59, of the Illinois Revised Statutes, 1965, attached hereto and made a part hereof as Appendix A.

(a) that defendant Walter H. Moses purports to be a Co-Chairman of The Committee on Inquiry of The Chicago Bar Association.

(b) that defendant Paul B. Youle purports to be a Co-Chairman of The Committee on Inquiry of The Chicago Bar Association.

(c) that defendant Charles E. Herzog purports to be Chairman of the Committee on Grievances of The Chicago Bar Association.

(d) that defendant John F. McBride purports to be the Secretary of The Committee on Inquiry of The Chicago Bar Association.

(e) that defendant Morris L. Simons purports to be a member of The Judiciary Committee of The Chicago Bar Association.

(f) that defendant Lester Asher purports to be Vice Chairman of The Committee on Grievances of The Chicago Bar Association.

7. It is a matter of public record and common knowledge that Sherman H. Skolnick has actively sought the removal or impeachment of Federal District Judge Joseph Samuel Perry because of gross misconduct and discrimination against Skolnick, including denying him the right of access to the federal court, unlawfully frightening and terrorizing him, and participating in the falsification of the record on appeal in a certain lawsuit, entitled **Sherman H. Skolnick v. Albert E. Hallett and Harry G. Fins,** in which Skolnick was a party-plaintiff and witness.

8. That since January 24, 1966, it has come to be a matter of public record and common knowledge that Skolnick was thus engaged in seeking to have removed or impeached the said Federal judge. On January 24, 1966, a television reporter interviewed Skolnick, for a television newsreel, in the lobby of the Federal Building, 219 South Dearborn Street, Chicago, Illinois, concerning the matter of **Sherman H. Skolnick, party-complainant v. Judge Joseph Samuel Perry, respondent,** presented to the Judicial Council of the Seventh Circuit of the United States. Said television interview and newsreel was observed during its making by approximately 150 people gathered in said Lobby of said Federal Building.

9. Said matter was the subject of a speech on the floor of the Congress of the United States by Congressman H. R. Gross, reported in Volume 112, Congressional Record, pages 2304, 2305, 2306, February 7, 1966. Further, said matter was the subject of a story-editorial in the Sunday edition, February 13, 1966, of the Chicago's American,

page 6, Section 3, said newspaper being one of the four large daily newspapers in Chicago, Illinois, of general and national circulation.

10. That the defendants purporting to be empowered by the aforementioned Section 101.59, have acted, and continue to act, in respect to the plaintiffs, as a super-court or board of inquisition, with purported power to inquire into, interfere with, and to obstruct, certain private litigation of the plaintiffs, as hereinafter more fully described.

11. That the defendants, purporting to be empowered as aforementioned, committed, did or caused to be done, acquiesced in, and condoned, or procured to be done, the following:

(a) On November 4, 1965, plaintiff Sarelas received a letter dated November 2, 1965, from defendant McBride on the letterhead of The Committee on Inquiry, and said defendant purporting to be as stated in paragraph 6 (d) preceding. The pertinent parts of said letter are as follows:

"I am directed by the Committee on Inquiry of The Chicago Bar Association to advise you that it has instituted an inquiry concerning you with regard to certain litigation involving certain judges."

"The Committee directs that you be present, and bring with you your files and records in this matter."

On November 4, 1965, Sarelas addressed a letter to The Committee on Inquiry, The Chicago Bar Association, to the attention of defendant McBride, the pertinent parts of said letter being as follows:

"I request that you furnish me by November 9th, 1965, the following:

"1. Copy of complaint, if any, with full specifications as to the matter of inquiry.

2. The name of the complainant, if any.

3. The nature and reason, source and purpose of the inquiry.

4. What 'certain judges', and what 'certain litigation', referred to in the first paragraph of your letter.

5. Copy of the Rules of the Committee.

6. List of members of Committee.

7. List of members of sub-committee, if any.

8. What 'files and records in this matter' are referred to in paragraph third of your letter stating 'and bring with you your files and records in this matter.'

Please acknowledge receipt of this letter."

(b) Receiving no response, Sarelas addressed a second letter to the attention of the said defendant McBride, demanding once again to be informed as he had asked in his letter of November 4, 1965.

Sarelas received no response to his two letters, but instead on November 19, 1965, he received a letter from McBride, dated November 18, 1965, repeating substantially the same as McBride's letter of November 2, 1965, and ordering once again that Sarelas bring his files and records without specific reference as to what files and records.

On November 23, 1965, Sarelas addressed a third letter to the said McBride, repeating his demand to be informed; to said letter there was no response.

(c) Defendant Morris L. Simons, on February 24, 1966, purporting to be as in paragraph 6 (e) preceding, called plaintiff Skolnick on the telephone, and then and there through the medium of the telephone, Simons knowingly made the false statement to Skolnick that since Skolnick had made a complaint of

some kind to The Chicago Bar Association, that Skolnick is ordered to come immediately, that same afternoon, to Simons' office, at 11 South LaSalle Street, Chicago, Illinois, so that Simons could, as purportedly empowered, question Skolnick regarding certain pending matters involving Judge Joseph Samuel Perry.

Said telephone call by defendant Simons was for the purpose and design of obstructing, interfering with, and impeding Skolnick as a witness and party-complainant in the matter regarding Judge Perry, pending before the Judicial Council of The Seventh Circuit of The United States, and before the Congress of the United States.

(d) On February 25, 1966, plaintiff Skolnick received a letter from defendant Simons, dated February 24, 1966, the pertinent parts of which are as follows:

> "As you requested in our telephone conversation of this day, I am writing to invite you to amplify the alleged misconduct of Judge Joseph S. Perry contained in your Motion to convene the Seventh Circuit Judicial Council which was apparently filed on January 24, 1966." That said statement was made by defendant Simons knowing that it was false and fraudulent in that plaintiff Skolnick never requested, invited, or solicited said letter by Simons.
>
> "Specifically, I would like to know the following.
>
> > "The name of the attorney who represented you before Judge Perry on September 24, 1962."

(e) On February 28, 1966, Skolnick addressed a letter to Simons, stating, among other things, that the

matter regarding Judge Perry was pending, among other places, before the Judicial Council of the Seventh Circuit of the United States, and before the Congress of the United States, and stating "I hereby request that you, either individually, or jointly with others, or on behalf of your organization, cease and desist immediately from interfering with my constitutional rights by impeding, obstructing, or disturbing said pending matters."

(f) Thereafter, the said defendant Simons, purporting to be empowered as aforementioned, on March 3, 1966, by and through the medium of the telephone, sought to frighten and intimidate Sarelas and sought to induce Sarelas to violate attorney-client privilege regarding the misconduct of Judge Perry at the time when Sarelas had been the attorney for Skolnick.

(g) In April, 1966, the defendants, purporting to be empowered as aforementioned, and acting through and by Moses, Youle, and Herzog, published and circulated a document, simulating process and simulating judicial proceedings, said document containing descriptions of the litigation of Sarelas and Skolnick; that said descriptions were known to the defendants to be false, distorted, and defamatory when published and circulated.

Said descriptions were of ten lawsuits in which Sarelas was a party-litigant and witness, and one lawsuit in which Skolnick was a party-litigant and witness.

(h) Prefacing the false, distorted, and defamatory descriptions of the said litigation of Sarelas and Skolnick, was a statement that Sarelas "engaged in a practice of instituting and maintaining groundless, frivolous, defamatory and scurrilous lawsuits in his own name or in the name of others," the defendants knowing full well the following:

(I) that in all of the ten lawsuits of Sarelas, knowingly falsely described by defendants, Sarelas was not acting in any professional capacity, but was a party-litigant and witness in private litigation seeking civil damages for injuries to his person, property, and effects, the equal right to sue and be a party-litigant and witness being guaranteed as against state action by the Fourteenth Amendment to the Federal Constitution and by 42 U. S. C. A., Sections 1981 et seq.; that in the one lawsuit of Skolnick, knowingly falsely described by defendants, Skolnick was a party-litigant, pro se, and witness.

(II) that in all of the lawsuits knowingly falsely described by the defendants, there was no adjudication on the merits, and the opponents of Sarelas and Skolnick in said lawsuits did not deny the fact allegations which stand admitted.

(III) that the instant defendants have no personal knowledge regarding said eleven lawsuits but willfully and maliciously circulated and published said document while the defendants were purportedly empowered as aforementioned.

12. That among the aforementioned eleven lawsuits is the case of **Sarelas v. Anagnost**, which has been and is pending in the state court of Illinois. The defendants, purporting to be empowered as aforementioned, are and have been obstructing and interfering with said litigation, and have sought and are seeking to influence the outcome in said litigation.

13. That the said Section 101.59 by purporting to empower the defendants, and their successors as such, to invade and destroy the federal constitutionally protected rights, privileges, and immunities of the plaintiffs, and of all other private litigants and persons similarly situ-

ated, is invalid, void, and unconstitutional, as being in contravention of the Fourteenth Amendment to the Federal Constitution and in contravention of Title 42 United States Code, Sections 1981 et seq.

14. That the said Section 101.59 by purporting to empower the defendants, and their successors as such, to act as a super-court, or board of inquisition, interfering with, and impeding, obstructing and intermeddling with the rights of the plaintiffs and of all other private litigants and persons similarly situated, is invalid, void, and unconstitutional, as being in contravention of the Fourteenth Amendment to the Federal Constitution and in contravention of Title 42 of the United States Code, Sections 1981 et seq.

15. That the said Section 101.59, by purporting to empower the defendants, and their successors as such, to invade and destroy the following federal constitutionally protected rights, privileges, and immunities of the plaintiffs and of all other private litigants and persons similarly situated, is invalid, void, and unconstitutional, as being in contravention of the Fourteenth Amendment to the Federal Constitution and in contravention of Title 42 of the United States Code, Sections 1981 et seq.:

(a) the right to sue, be parties, give evidence, and the right to the full and equal benefit of all laws and proceedings for the security of persons and property.

(b) the right to seek civil damages to redress injuries to persons and property.

(c) the right to the equal access to courts to prevent or redress wrong and to enforce rights.

(d) the right not to have private litigation reviewed or re-adjudicated by the defendants or their successors as such, purporting to be empowered as a super-court or board of inquisition.

(e) the right to own, lease, and use real and personal property.

(f) the equal protection of the right to find a certain remedy in the laws for all injuries and wrongs which a citizen may receive in his person, property, and reputation; and the equal protection of the right to obtain, by law, right and justice freely, and without being obliged to purchase it, completely and without denial, and without being obliged to obtain the permission of the defendants, or their successors as such, before having the right of access to courts.

(g) the right to protection from the defendants', or their successors', intermeddling, interfering, and influencing the outcome in the litigation of the plaintiffs; and the defendants', or their successors', intermeddling, interfering, and influencing the outcome in petitions for redress of grievances.

(h) the right to petition for redress of grievances.

(i) the right to protection from defendants', or their successors', simulated process and simulated court proceedings, purporting to be empowered as a super-court or board of inquisition.

16. The rights of the plaintiffs, Sherman H. Skolnick and Peter S. Sarelas, and of all other private litigants and persons similarly situated, can be protected only by a decree of this Court declaring the said Section 101.59 to be unconstitutional and enjoining the defendants, and their successors as such, from any and all acts pursuant to these unconstitutional provisions.

17. The plaintiffs have no adequate remedy other than the judicial relief sought herein. Since the said Section 101.59 purports to empower the defendants, and their successors as such, to invade and destroy the federal constitutionally protected rights, privileges, and immunities

of the plaintiffs and of all other private litigants and persons similarly situated, only a judicial decree can remedy these provisions.

18. That the defendants, purporting to be empowered as aforementioned, and acting by and through defendant Lester Asher, on June 20, 1966 addressed a letter to plaintiff Sarelas, received by him on June 21, 1966, and notified Sarelas that they would persist in interfering and intermeddling in the pending state court case of **Sarelas v. Anagnost**, known by the instant defendants to be pending and is still pending; all in violation of the federal constitutionally protected rights, privileges, and immunities of Sarelas, as aforementioned.

Wherefore, in view of the aforesaid, the plaintiffs, Sherman H. Skolnick and Peter S. Sarelas, respectfully pray:

This Court take jurisdiction of this matter; that a special three-judge court be called to hear and determine this case as by law provided in Title 28 United States Code, Sections 2281 et seq., and declare the rights of the plaintiffs pursuant to Title 28 United States, Section 2201 in the premises, to wit:

(a) That Section 101.59 of Chapter 110 of the Illinois Revised Statutes, 1965, is invalid, void, and unconstitutional, insofar as it purports to empower the defendants, and their successors as such, to invade and destroy the federal constitutionally protected rights, privileges, and immunities of the plaintiffs and of all other private litigants and persons similarly situated, depriving the plaintiffs of liberty and property without Due Process of Law, and depriving the plaintiffs of the Equal Protection of the Laws, in violation of the Fourteenth Amendment to the Federal Constitution.

And further plaintiffs pray that the Court grant further relief in accordance with Title 28 United States Code, Section 2202, as follows:

(b) to restrain the defendants, and their successors as such, from any and all acts pursuant to said Section 101.59, invading and destroying the federal constitutionally protected rights, privileges, and immunities of the plaintiffs and of all other private litigants and persons similarly situated.

(c) Should grant such other and further relief as to this Court may seem just and proper.

/s/ Sherman H. Skolnick,
Sherman H. Skolnick, Plaintiff.

/s/ Peter S. Sarelas,
Peter S. Sarelas, Plaintiff.

(Appendix "A" to Complaint is shown in Appendix "B" of Jurisdictional Statement.)

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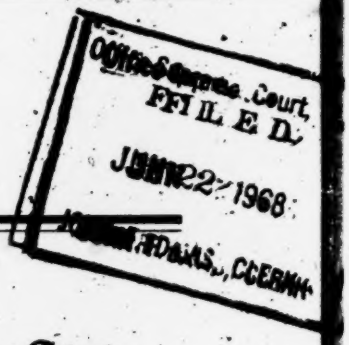


# No. 1330

# In the Supreme Court of the United States

OCTOBER TERM, 1967

**SHERMAN H. SKOLNICK and PETER S. SARELAS,**
*Appellants,*

vs.

**WALTER H. MOSES, PAUL B. YOULE, CHARLES E. HERZOG, JOHN F. McBRIDE, MORRIS L. SIMONS, LESTER ASHER, and THE CHICAGO BAR ASSOCIATION,**
*Appellees.*

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

## PETITION FOR REHEARING OF ORDER AFFIRMING JUDGMENT

SHERMAN H. SKOLNICK,
9800 South Oglesby Avenue,
Chicago, Illinois 60617
Essex 5-5741
*Appellant, Pro Se.*

PETER S. SARELAS,
30 North LaSalle Street,
Chicago, Illinois 60602
Central 6-1442
*Appellant, Pro Se.*

# In the Supreme Court of the United States

OCTOBER TERM, 1967

## No. 1330

SHERMAN H. SKOLNICK and PETER S. SARELAS,
*Appellants,*

vs.

WALTER H. MOSES, PAUL B. YOULE, CHARLES E. HERZOG, JOHN F. McBRIDE, MORRIS L. SIMONS, LESTER ASHER, and THE CHICAGO BAR ASSOCIATION,
*Appellees.*

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

## PETITION FOR REHEARING OF ORDER AFFIRMING JUDGMENT

The appellants, Sherman H. Skolnick and Peter S. Sarelas, move this Court to reconsider and vacate its Order of June 3rd, 1968, affirming the judgment, and to

hear the appeal, as prayed in the Jurisdictional Statement filed April 17, 1968, herein.

For reasons the appellants state:

1. The effect of this Court's Order is to leave the state Legislature and the lower courts without guidance. By submitting no Opinion with reasons for affirming the judgment, this Court deprives the appellants of the one statutory direct appeal to which they are entitled from a three-judge statutory District Court.

See: Dissenting Opinion in *Rockfeller* v. *Wells*, 88 S.Ct. 578, at 580, (1968).

2. By having no Opinion this Court, in this case, leaves the lower court, the state legislature, and litigants without any guidance—they all have to guess what this Court means in affirming without an Opinion.

3. It is respectfully suggested that it would appear improper for a Court of last resort to affirm a judgment on a statutory direct appeal, without citing a single authority and without stating a single reason whatsoever.

4. If this Court did not desire to grant these appellants their statutory right of direct appeal, then this Court could have dismissed the appeal, instead of purporting to summarily rule on the merits.

Appellants reassert their statutory right of direct appeal and do not waive their request for a written Opinion for the guidance of the Bench, the Bar and the public.

## CONCLUSION

For the reasons set forth above and in the Jurisdictional Statement, filed April 17, 1968, herein, it is respectfully urged that this Court reconsider and vacate its Order of June 3rd, 1968, affirming the judgment, and to hear appellants' statutory direct appeal.

Respectfully submitted,

SHERMAN H. SKOLNICK,
9800 South Oglesby Avenue,
Chicago, Illinois 60617,
*Appellant, Pro Se.*

PETER S. SARELAS,
30 North La Salle Street,
Chicago, Illinois 60602,
*Appellant, Pro Se.*

## CERTIFICATE OF APPELLANTS, PRO SE.

We, each of us, hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and is restricted to grounds specified in Rule 58 of the Rules of this Court.

.....

Sherman H. Skolnick, *Appellant, Pro Se.*

.....

Peter S. Sarelas, *Appellant, Pro Se.*

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967.

SKOLNICK ET AL. *v.* MOSES ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS.

No. 1330. Decided June 3, 1968.

PER CURIAM.

The judgment is affirmed.